

FILED
ASHEVILLE, N.C.

SEP 28 2010

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:10cv64

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 v.)
)
 \$102,078.09 IN UNITED STATES)
 CURRENCY,)
)
 Defendant.)

CONSENT JUDGMENT

WHEREAS, the United States filed a Verified Complaint on March 16, 2010, for the forfeiture of the defendant property; and,

WHEREAS, the Complaint alleged that the defendant property, which had been seized from a bank account in the name of Discount Cigarettes Incorporated, was subject to forfeiture to the United States pursuant to 31 U.S.C. § 5317(c)(2) because it was involved in transactions in violation of 31 U.S.C. §§ 5313, 5324, and 5331; and,

WHEREAS, the Court issued a warrant for arrest *in rem* on March 18, 2010; and,

WHEREAS, on March 18, 2010, and for thirty days thereafter, the United States, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims, Title 28, U.S.C. Appendix, published notice on an official internet government forfeiture site (www.forfeiture.gov) of its intent to forfeit the defendant property, and no person or entity has filed a claim to the defendant property; and,

WHEREAS, on April 20, 2010, Discount Cigarettes Incorporated, by and through its vice-president, Carolyn Rice, and Carolyn Rice, for herself, filed a joint claim of ownership of the defendant property; and,

WHEREAS, on May 10, 2010, Discount Cigarettes Incorporated, by and through its vice-president, Carolyn Rice, and Carolyn Rice, for herself, filed a joint Answer;

WHEREAS, Discount Cigarettes Incorporated and Carolyn Rice stipulate that they know of no other person or entity that has an ownership interest in the defendant property; and,

WHEREAS, the United States and Claimants Discount Cigarettes Incorporated and Carolyn Rice have agreed that one-half of the defendant property is subject to forfeiture and that one-half shall be returned to Discount Cigarettes and Carolyn Rice, jointly; and

WHEREAS, Discount Cigarettes Incorporated, its officers and employees, and Carolyn Rice, have agreed to release and forever discharge the United States, its agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina and their agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which claimant or her heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, seizure, detention, and forfeiture; and have agreed to bear their own costs, including attorney fees;

WHEREAS, the parties consent to the United States Magistrate Judge conducting all proceedings, including entry of this Consent Judgment, pursuant to 28 U.S.C. §636(c).

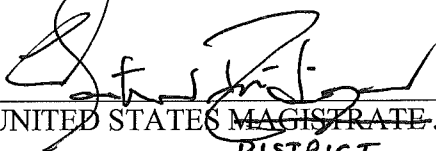
NOW, THEREFORE, THE COURT FINDS THAT:

1. A Verified Complaint for forfeiture *in rem* of the defendant property was filed on March 16, 2010.
2. Process and notice were fully issued in this action and returned according to law.
3. Discount Cigarettes Incorporated and Carolyn Rice filed a timely joint Claim and Answer.
4. There are no other claimants.
5. The United States and Discount Cigarettes Incorporated and Carolyn Rice have agreed to the settlement of this action in which half of the defendant property shall be forfeited to the United States and half of the defendant property returned to Discount Cigarettes and Carolyn Rice jointly.
6. Pursuant to 18 U.S.C. § 983(c) and 31 U.S.C. § 5317(c), that portion of the defendant property that is \$51,039.05 in United States currency is subject to forfeiture and has a substantial connection to and was involved in the offense alleged in the Complaint.
7. The actions taken by the United States were reasonable and proper.

Based on the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The sum of \$51,039.05 is forfeited to the United States, to be disposed of according to law.
2. The United States is ordered to return the sum of \$51,039.04 to Discount Cigarettes Incorporated and Carolyn Rice jointly.
3. Each party is to bear its own costs of this action, including attorneys fees.

Signed this the 28 day of September, 2010.


UNITED STATES MAGISTRATE JUDGE
DISTRICT

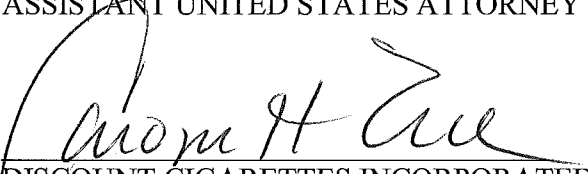
ON MOTION OF AND WITH CONSENT OF:

ANNE M TOMPKINS
UNITED STATES ATTORNEY



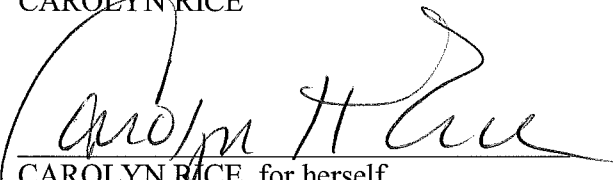
THOMAS R. ASCIK
ASSISTANT UNITED STATES ATTORNEY

Date: 9/27/10




DISCOUNT CIGARETTES INCORPORATED
by and through its Vice-President
CAROLYN RICE

Date: 9/22/10



CAROLYN RICE, for herself

Date: 9/22/10



RODNEY HASTY
counsel to
Discount Cigarettes Incorporated, and Carolyn Rice

Date: 9-22-10

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